

**MEDIA RELEASE** PSA welcomes Constitutional Court ruling granting equal parental leave to both parents

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**EMBARGO** NONE

**ENQUIRIES** [communication@psa.co.za](mailto:communication@psa.co.za)

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The Public Servants Association (PSA) representing over 250 000 members in the public sector, welcomes the landmark Constitutional Court judgment affirming that both parents must be granted equal parenting leave for their newborn babies. The PSA applauds the Court's finding that the current parental leave dispensation is discriminatory and inconsistent with the Constitution, marking a major step forward for gender equity and family rights in South Africa.

In October 2025, the Gauteng High Court declared certain provisions of the *Basic Conditions of Employment Act (BCEA)* and the *Unemployment Insurance Act (UIA)* dealing with maternity leave and benefits to be unconstitutional and discriminatory. The Court found that these provisions violated the constitutional right to equality, as they unfairly differentiated between biological mothers and other categories of parents, including fathers, adoptive parents, and commissioning parents in surrogacy arrangements.

While the High Court suspended its declaration of invalidity for two years to allow Parliament to amend the affected provisions, the Constitutional Court has now confirmed that the *BCEA* and *UIF* provisions in question are invalid and must be reformed. The Court ruled that the four months of maternity leave traditionally reserved for mothers, and the ten days of paternity leave for fathers, may now be shared between parents as they see fit, based on their family circumstances. The Court held that these provisions unfairly infringed on a fathers' rights to dignity by marginalising their parental role and depriving families of the freedom to decide how to structure childcare responsibilities. The Court agreed that this differentiation was discriminatory and without justification, failing to meet the standards of fairness required by Section 36 of the Constitution.

The PSA views this ruling as a historic victory for workers and families, as it reinforces the principle of gender equality in both the home and workplace. It empowers families to make decisions best suited to their needs and supports the shared responsibility of parenting. Importantly, the judgment promotes the wellbeing of children, ensuring they benefit from the care and involvement of both parents. This decision is pivotal for creating a more inclusive and equitable society, where caregiving is recognised as a shared responsibility rather than one that falls predominantly on women. It will also contribute to a more balanced and humane workplace, where both parents can participate equally in the critical early stages of their child's life.

The PSA urges Parliament to act swiftly to give legislative effect to the judgment and align South Africa's parental leave policies with international best practices. The forthcoming reforms present an opportunity to strengthen a culture of equality, care, and responsibility-sharing, both at work and at home.

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